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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ADRIAN RISKIN,

Petitioner,

vs.

HISTORIC CORE BUSINESS
IMPROVEMENT DISTRICT PROPERTY
OWNERS ASSOCIATION,

Respondent.

Case No.

VERIFIED PETITION FOR WRIT OF
MANDATE DIRECTED TO THE HISTORIC
CORE BUSINESS IMPROVEMENT
DISTRICT PROPERTY OWNERS
ASSOCIATION ORDERING COMPLIANCE
WITH CALIFORNIA PUBLIC RECORDS
ACT AND FOR DECLARATORY AND
INJUNCTIVE RELIEF; EXHIBITS A-PP

[Gov't Code § 6250 *et seq.*;
Code of Civ. Pro. § 1060]

Under Code of Civil Procedure §§ 1085 *et seq.* and the California Public Records Act, Government Code §§ 6250 *et seq.*, ("CPRA"), petitioner Adrian Riskin ("Petitioner") petitions this Court for a writ of mandate directed to respondent Historic Core Business Improvement District Property Owners Association ("Respondent"), commanding Respondent to comply with the CPRA, and for declaratory and equitable relief. By this verified Petition, Petitioner alleges:

JURISDICTION

1. This Court has jurisdiction over this Petition pursuant to Cal. Gov't Code §§ 6258 and 6259 and Code of Civ. Pro. § 1060.

1 **THE PARTIES**

2 1. Petitioner Adrian Riskin is a concerned resident of Los Angeles,
3 California. Petitioner has a PhD in mathematics and is a math professor at a local college. He
4 also publishes a website, <http://michaelkohlhaas.org>, where he regularly disseminates
5 information to the general public about the workings of the City's Business Improvement
6 Districts, including information obtained through the California Public Records Act. As such,
7 Petitioner is within the class of persons beneficially interested in Respondent's faithful
8 performance of its legal duties under the CPRA.
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11 2. Respondent Historic Core Business Improvement District Property Owners
12 Association is a property owners' association created by the City of Los Angeles in 1998,
13 pursuant to the Property and Business Improvement District law of 1994, California Streets and
14 Highways Code Section 36600 *et seq.*, to manage the Historic Core Business Improvement
15 District ("HCBID"). Respondent is an association subject to the CPRA. *See* Streets and
16 Highways Code § 36612.
17

18 **OVERVIEW**

19 1. In an effort to monitor the workings of Respondent and other BIDs, and
20 disseminate his findings on his website, Petitioner has utilized the CPRA. The materials on
21 Petitioner's website are available for free to the public. He has been quoted in the *Los Angeles*
22 Times, his website linked to in various articles, and he has been contacted by documentary film
23 makers, public interest attorneys, and students from Boalt Hall's Policy Advocacy Clinic who
24 have utilized information on his website for their projects.
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27 2. Petitioner, through the five CPRA requests at issue in this petition, seeks to
28 understand the ways in which Respondent's staff and board of directors influence City officials

1 with respect to pending legislation and other City matters. For instance, Respondent's Executive
2 Director, Blair Besten, has lobbied the City on behalf of her board with respect to "DTLA 2040"
3 and other planning and development matters. Petitioner also seeks to understand the means by
4 which Ms. Besten collaborates with the staff of other Downtown BIDs to be able to present a
5 unified set of concerns to City staff with whom they interact.
6

7 3. At the time petitioner requested communications between Respondent and its
8 consultant, in June 2017, the BID was undergoing its renewal process, pursuant to the Property
9 and Business Improvement District Law of 1994, which involved advocating for the passage of
10 two key ordinances. At that time, Petitioner was seeking to understand the means employed by
11 Respondent and its consultant to influence the City with respect to this municipal legislation.
12 This process is now almost complete, with one of the two ordinances having been passed in May
13 2018 and the other scheduled for late Fall 2018, almost certainly before all responsive records
14 will have been made available.
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17 4. The Municipal Lobbying Ordinance, LAMC § 48.01 *et seq.*, explicitly states the
18 weighty public interest in understanding such matters: "The citizens of the City of Los Angeles
19 have a right to know the identity of interests which attempt to influence decisions of City
20 government, as well as the means employed by those interests." LAMC § 48.01(B)(2).
21 "Complete public disclosure of the full range of activities by and financing of lobbyists and those
22 who employ their services is essential to the maintenance of citizen confidence in the integrity of
23 local government." LAMC § 48.01(B)(4). Respondent's failure to timely comply with the CPRA
24 has led to a valuable opportunity lost for transparency and democratic oversight, as Respondent
25 won't renew again for another five years.
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1 5. Not only has Respondent failed to timely reply, Respondent has endeavored to
2 make Petitioner's access to the records unreasonably difficult by repeatedly cancelling
3 appointments to review the records, requiring review of records in a dimly lit room with no chair
4 or table, printing copies in size 4 font, and only permitting two hours per appointment to review
5 records.
6

7 6. Respondent became even less compliant with its statutory obligations under the
8 CPRA after Petitioner published emails, obtained through the CPRA, exposing Respondent's
9 back-room efforts to defeat the creation of a Skid Row Neighborhood Council. As explained in
10 paragraph 16, below, both *The LA Weekly* and *Curbed LA* covered the debacle, linking directly to
11 Petitioner's website.
12

13 7. After Respondent hired attorney Jeffrey C. Briggs in October 2017 to handle
14 CPRA requests, its non-compliance with the CPRA became more egregious. It has been over a
15 year and a half and Respondent has not completed the production of any of the requests at issue
16 in this petition. Mr. Briggs promises documents but then fails to produce them and ignores status
17 requests for months on end. His strategy to unreasonably delay the production of requested
18 records is to ignore Petitioner's emails, claim repeated technological problems, and to send
19 numerous duplicative and non-responsive records with almost every batch of records he
20 produces.
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23 8. Notwithstanding the public's strong interest in these issues, and despite the need
24 for openness from private, non-profit corporations providing public functions and municipal
25 services, Respondent has disregarded its legal obligations and restricted public access to
26 information. Petitioner seeks immediate production of withheld records and challenges all of
27 Respondent's claimed exemptions.
28

BACKGROUND OF CPRA REQUESTS

1/24/2017 Request

9. On January 24, 2017, Petitioner sent a CPRA request to Respondent's Executive Director, Ms. Blair Besten seeking:

"All emails between you and anyone at lacity.org or any of its subdomains from between January 1, 2016 and today. I would like to take a look at these emails in their native electronic formats as well as all attachments to them, also in their native electronic format." A true and correct copy of Petitioner's January 24, 2017 email is attached as **Exhibit A**.

10. Respondent failed to respond to these requests within 10 days as required by the CPRA § 6253(c). On February 10, 2017, Respondent replied stating the request:

"is not specific or focused and seeks a volume of documents which will require significant time to search evaluate and produce. We cannot search for 'any of its subdomains' which is hopelessly vague..." Respondent also stated that "[e]fforts are being made to provide these to [Petitioner] as quickly as possible." A true and correct copy of Ms. Besten's February 10, 2017 email is attached as **Exhibit B**.

11. After a few status requests from Petitioner, on February 23, 2017, Respondent emailed Petitioner regarding claimed exemptions and expressing a need for additional time: "After initial review, some of the records you request are exempt from disclosure under the CPRA because they contain proprietary information, deliberative process/privileged information, or personal contact and private information, and the disclosure would invade the right to privacy of an unrelated third party. We need to continue to identify/search for and collect these records.

1 When the BID can segregate the exempt information, the records will be made available to you.”

2 A true and correct copy of Ms. Besten’s February 23, 2017 email is attached as **Exhibit C**.

3
4 12. From February 23, 2017 through May 4, 2017, Petitioner and Respondent
5 exchanged a series of emails in which Petitioner sought to review the records. Finally, on May
6 19, 2017, Respondent produced some responsive records to Petitioner. Ms. Besten, however,
7 enacted a Kafkaesque series of administrative hurdles and roadblocks including printing some
8 documents in illegibly small font, putting Petitioner in a dimly lit room with no table or chairs to
9 review documents, not allowing Petitioner to bring his own flash-drive, requiring Petitioner to
10 mail a check sent in advance for the cost of a flash-drive, and providing time for the check to
11 clear before allowing Petitioner to inspect the records, and refusing to transfer files
12 electronically, for example via Dropbox, as she had done in the past. While Petitioner was at
13 Respondent’s office, Ms. Besten even gave another requestor free copies of records in front of
14 Petitioner but did not allow Petitioner to have copies for free. A true and correct copy of the
15 email exchange between Petitioner and Ms. Besten is attached as **Exhibit D**.

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18 13. Furthermore, its redactions were not well taken. Ms. Besten printed out records on
19 which she only redacted email addresses and phone numbers for real estate agents, Respondent’s
20 board of directors, and individuals from the City and other BIDs. However, she also produced
21 multiple records where these same email addresses and phone numbers were unredacted.

22
23 14. Respondent also continues to improperly withhold records claiming they contain
24 proprietary information and deliberative process/privileged information.

25 //

26 //

27 //

**Documents Reveal Respondent's Collusion in Undermining
the Skid Row Neighborhood Council**

15. After Respondent produced records responsive to the January 24, 2017 request, Mr. Riskin published them to his website. These documents exposed how Respondent and other Downtown BIDs worked behind the scenes to defeat the Skid Row community's attempt at forming its own neighborhood council. Many Skid Row residents participated in the Skid Row Neighborhood Council ("SRNC") elections that took place in April 2017 because they wanted a government body that would increase residents' voices in the decisions being made about development and displacement in their neighborhood. The SRNC would have been a neighborhood council in which homeless and low-income residents would have had multiple designated board seats. Skid Row has historically been within the jurisdiction of neighborhood councils dominated by business representatives and property-owners.

16. Before the election took place, the BIDs participated in the organization "United Downtown LA, LLC) ("United DTLA") to oppose the formation of the SRNC. United Downtown LA hired former Los Angeles City Attorney Rocky Delgadillo as a lobbyist and set about preventing the formation of the SRNC. After a close and controversial election, which is now the subject of litigation, the formation of the SRNC was defeated. The documents Mr. Riskin has obtained from Respondent through the CPRA were cited in the *LA Weekly*¹ and *Curbed Los Angeles*,² in articles covering the loss of the SRNC election. These publications not only cite the documents, they link directly to his website.

¹ Who Killed the Skid Row Neighborhood Council, *LA Weekly*, June 21, 2017, <http://www.laweekly.com/news/how-the-skid-row-neighborhood-council-was-defeated-8326405> [as of November 13, 2017]

² Who Brought Down the Skid Row Neighborhood Council: business improvement districts and some developers opposed the effort, *Curbed Los Angeles*, June 21, 2017, <https://la.curbed.com/2017/6/21/15850454/skid-row-neighborhood-council-opposition-developers> [as of November 13, 2017]

1 17. Once these articles were published in June 2017, exposing Respondent's
2 collaboration with back room efforts to defeat the SRNC, Respondent's compliance with the
3 CPRA became even more abysmal.
4

5 2/22/17 Requests

6 18. On February 22, 2017, Petitioner submitted two CPRA requests to Respondent.
7 The first February 22, 2017 request ("City Emails") asked Ms. Besten for:

8 All emails between anyone at the HCBID, staff or board, and anyone at the City of
9 Los Angeles including LAPD from between January 25, 2017 and February 22, 2017.
10 I would like to take a look at these emails in their native electronic formats as well as
11 all attachments to them, also in their native electronic formations. A true and correct
12 copy of Petitioner's first February 22, 2017 email is attached as **Exhibit E**.
13

14 19. Petitioner's second February 22, 2017 request ("StreetPlus Emails") to Ms.
15 Besten stated:
16

17 I'd like to take a look at all emails between anyone at the HCBID, staff or board, and
18 anyone at StreetPlus from January 1, 2016 through January 31, 2017. I would like to
19 take a look at these emails in their native electronic formats as well as all attachments
20 to them, also in their native electronic formats. A true and correct copy of Petitioner's
21 second February 22, 2017 email is attached as **Exhibit F**.
22

23 20. Respondent failed to respond to these requests within 10 days as required by the
24 CPRA § 6253(c). Therefore, Petitioner, on March 8, 2017, asked Ms. Besten for a status report.
25 A true and correct copy of Petitioner's March 8, 2017 email is attached as **Exhibit G**.
26

27 21. On March 10, 2017, Ms. Besten responded claiming numerous exemptions,
28 "proprietary information, deliberative process privileged information, personnel information,

1 deliberative process privileged information, personnel information, and personal contact and
2 private information that disclosure of which would invade the right to privacy of unrelated third
3 parties.” She also stated a need for a 14-day extension to “identify, search for, and collect such
4 records,” and explained how the records could be reviewed or produced, including the cost of
5 producing them on a flash drive. True and correct copy of Ms. Besten’s March 10, 2017 email is
6 attached as **Exhibit H**.

8 22. On March 24, 2017, Ms. Besten emailed Petitioner, claiming more than a 14-day
9 extension would be needed, reiterating the claimed exemptions, as well as the copying and
10 production costs. A true and correct copy of Ms. Besten’s March 24, 2017 email is attached as
11 **Exhibit I**.

13 23. On May 4, 2017, Respondent emailed Petitioner indicating that the materials
14 responsive to both his 2/22/17 requests were ready to inspect. A true and correct copy of Ms.
15 Besten’s May 4, 2017 emails are attached as **Exhibit J**.

17 24. On May 19, 2017, Petitioner, accompanied by acquaintance and Downtown Los
18 Angeles community activist Katherine McNenny, went to an appointment with Ms. Besten to
19 inspect records responsive to his January and February requests. To his surprise, Respondent
20 produced nothing responsive to his February requests.

22 25. On June 26, 2017, Petitioner asked for a response to his two February 2017
23 requests. A true and correct copy of Petitioner’s June 26, 2017 email is attached as **Exhibit K**.

24 26. On July 6, 2017, Ms. Besten responded, “[r]egarding the requests from the 22nd of
25 February, our apologies, they must have gotten lost in the mix” and offered to mail them to him.
26 A true and correct copy of Ms. Besten’s June 26, 2017 email is attached as **Exhibit L**.

1 27. Ms. Besten did not mail the records and, as explained further below, in
2 paragraphs 36 to 55, Respondent continues to improperly withhold records responsive to both of
3 Petitioner's February 22, 2017 requests.
4

5 **6/26/17 Request**

6 28. On June 26, 2017, Petitioner requested the following records from Respondent:
7 (1) All emails between (to/from/cc/bcc) anyone at the HCBID and any of the
8 following people, email addresses, and/or domains... from January 1, 2016 through
9 whenever you comply with this request:[list of 27 email addresses and domains of
10 Downtown BIDs, developers and businesses]; (2) All emails between anyone on the
11 staff of HCBID and anyone at the City of Los Angeles including LAPD from
12 February 23, 2017 through whenever you comply with this request...; (3) Any emails
13 with the word "delijani" in them if not already included in the previous categories...
14 from January 1, 2016 to whenever you comply with this request; (4) the BID's
15 contract with your renewal consultant and any communications between anyone (staff
16 and/or board) at the BID and anyone at the renewal consultant." He asked for all
17 emails in EML format with attachments in their native formats. A true and correct
18 copy of Petitioner's June 26, 2017 email is attached as **Exhibit K**.
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22 29. Respondent failed to respond to this request within 10 days as required by the
23 CPRA § 6253(c). Ms. Besten replied on July 6, 2017, claiming the following exemptions,
24 "proprietary information, deliberative process/privileged information, or personal contact and
25 private information." She also said Respondent would need an additional 14 days and that when
26 the BID could "segregate the exempt information," they would make them available. A true and
27 correct copy of Ms. Besten's July 6, 2017 email is attached as **Exhibit M**.
28

1 30. On July 21, 2017, Petitioner and Ms. Besten agreed he would inspect records
2 from his February requests and June request on August 2, 2017. Ms. Besten claimed additional
3 basis for withholding records including “drafts, notes, or interagency or intra-agency
4 memoranda... the records are not related to the conduct of the BID’s business, [] the benefit to
5 the public does not outweigh the burden of disclosure.” A true and correct copy of Ms. Besten’s
6 July 21, 2017 email is attached as **Exhibit N**.

8 31. On July 31, 2017, Ms. Besten emailed Petitioner, cancelling his appointment and
9 stating that all of the materials would not be ready until September. She offered to mail him
10 some of the records that week. A true and correct copy of Ms. Besten’s July 31, 2017 email is
11 attached as **Exhibit O**.

13 32. Petitioner, having already been told that the records responsive to his February
14 requests were ready assumed Ms. Besten’s email referred to records responsive to his June
15 request so he let her know he would keep the appointment to inspect the February materials.

17 33. On August 1, 2017, Ms. Besten unilaterally cancelled Petitioner’s appointment for
18 the next day. She claimed the requested material would be mailed to him no later than that
19 Friday. A true and correct copy of Ms. Besten’s August 1, 2017 email is attached as **Exhibit P**.

21 34. On August 5, 2017, having heard nothing more from Respondent, Petitioner
22 asked for a status update and asked to come in to inspect the records. Ms. Besten did not
23 respond. A true and correct copy of Petitioner’s August 5, 2017 email is attached as **Exhibit Q**.

24 35. Having received no records and no update, on September 29, 2017, Petitioner
25 again asked Ms. Besten for a status report and asked her to make the materials immediately
26 available. She did not respond. A true and correct copy of Petitioner’s September 29, 2017 email
27 is attached as **Exhibit R**.

1 **10/1/17 Attorney Jeff Briggs Begins Responding On Behalf of Respondent**

2 36. On October 10, 2017, Mr. Briggs notified Petitioner that Mr. Briggs was
3 representing Respondent with regards to Petitioner's CPRA requests and that he anticipated
4 "further production of records to resume by the end of the month." A true and correct copy of
5 Mr. Briggs' October 10, 2017 email is attached as **Exhibit S**.
6

7 37. On November 1, 2017, having heard nothing further and having not received any
8 documents by the end of October as promised, Petitioner emailed Mr. Briggs to ask about the
9 status of his requests. Mr. Briggs did not respond. A true and correct copy of Petitioner's
10 November 1, 2017 email is attached as **Exhibit T**.
11

12 38. On November 26, 2017, still having received no response from Mr. Briggs,
13 Petitioner sent another status request. A true and correct copy of Petitioner's November 26, 2017
14 email is attached as **Exhibit U**.
15

16 39. On December 9, 2017, having received no response from Mr. Briggs for two
17 months, Petitioner sent Mr. Briggs yet another status request. A true and correct copy of
18 Petitioner's December 9, 2017 email is attached as **Exhibit V**.
19

20 40. On December 11, 2017, Mr. Briggs finally responded. He produced 19 records
21 which he claimed were responsive to the February and/or June 2017 requests. In fact, not only
22 were they not responsive to either, they were responsive to Petitioner's January 2017 request and
23 Ms. Besten had already produced them seven months earlier, in May 2017. When Petitioner
24 notified Mr. Briggs of the error on December 11, 2017 Mr. Briggs responded, "You may get
25 some material outside the dates requested." He also admitted he didn't have all the records,
26 although he had purportedly been working on the matter since early October 2017 and Ms.
27
28

1 Besten had stated the materials were ready as far back as July 2017. A true and correct copy of
2 the email exchange between Petitioner and Mr. Briggs is attached as **Exhibit W**.

3 41. On December 15, 2017, Mr. Briggs sent Petitioner another 19 records, claiming
4 these were responsive to the February and/or June 2017 requests. In fact, only 1 was responsive.
5 As with the records he had sent a few days earlier, the other 18 records were responsive to
6 Petitioner's January 2017 request and Ms. Besten had already produced them seven months
7 earlier, in May 2017. Mr. Briggs also promised Petitioner would get "about 1000 more emails
8 next week." As he has done since 2015 when representing the Hollywood Media District BID,
9 Mr. Briggs claims "technical issues" as the reason for delay and as an excuse for producing a
10 large volume of unresponsive records. On December 15, 2017, Mr. Briggs also promised "about
11 1000 more emails next week." A true and correct copy of Mr. Briggs' December 15, 2017 email
12 is attached as **Exhibit X**.

13 42. On December 20, 2017, Mr. Briggs sent Petitioner 54 records. Most were
14 automated announcements from the Los Angeles City Clerk. While responsive, they seem
15 selected for banality. A true and correct copy of Mr. Briggs' December 20, 2017 email is
16 attached as **Exhibit Y**.

17 43. On December 20, 2017, Petitioner responded, asking Mr. Briggs to please not
18 mis-label the subject line of his emails with the wrong request date. He further requested Mr.
19 Briggs wait until he had the response to each request completed and not send the promised 1,000
20 emails "in mis-labeled batches at a rate of about 12 per week [as] it's going to take until 2019
21 and no one will actually understand what happened." A true and correct copy of Petitioner's
22 December 20, 2017 email is attached as **Exhibit Z**.

1 44. Mr. Briggs did not send 1,000 records the week of December 18, 2017 as
2 promised. Over a month later, on January 30, 2018, Mr. Briggs emailed Petitioner, “[a]most
3 done with review. I will be gone a few days and you should have late next week.” A true and
4 correct copy of Mr. Briggs’ January 30, 2017 email is attached as **Exhibit AA**.

5
6 45. Again, Mr. Briggs failed to produce records as promised. He did not send any
7 records the week of February 5, 2018. It was not until February 22, 2018, exactly a year after
8 Petitioner made his February 22, 2017 requests, that Mr. Briggs sent another 23 of the promised
9 1,000 emails. And, of the 23, only 8 were responsive. A true and correct copy of the first page
10 Mr. Briggs’ February 22, 2018 email is attached as **Exhibit BB**.

11
12 46. On February 22, 2018, Petitioner responded, again notifying Mr. Briggs of the
13 difficulty in keeping track of the dribble of records he was producing and asked that he wait to
14 send until the entire response was prepared. A true and correct copy of Petitioner’s email is
15 attached as **Exhibit CC**.

16
17 47. On March 2, 2018, Mr. Briggs sent Petitioner 36 records from Respondent in a
18 response to a CPRA request Petitioner had made to a different BID. When Petitioner notified Mr.
19 Briggs, Mr. Briggs stated, “I apologize for having included the Besten emails with the Media
20 District [BID]’s provision of records. Be sure to save them for the Historic Core BID response
21 *which is nearly done.*” (Emphasis added). All of the 36 records were automated City of LA
22 spam. A true and correct copy of Mr. Briggs’ March 2, 2018 email is attached as **Exhibit DD**.

23
24 48. On April 30, 2018, Mr. Briggs stated that the requested records were coming that
25 same week or the following week “at latest.” A true and correct copy of Mr. Briggs’ April 30,
26 2018 email is attached as **Exhibit EE**.

1 49. On May 3, 2018, Mr. Briggs reported he had a family emergency and couldn't
2 send records that week. A true and correct copy of Mr. Briggs' May 3, 2018 email is attached as
3 **Exhibit FF.**

4
5 50. On May 10, 2018, Mr. Briggs claimed to be attempting to send a test message but
6 did not send any records. Mr. Briggs again claimed technical difficulties, "[t]hese logistics are
7 driving me insane." He also tried to blame his client for Respondent's failure to produce the
8 records, "I will keep working on it with all my clients who don't use Outlook!" A true and
9 correct copy of Mr. Briggs' May 10, 2018 email is attached as **Exhibit GG.**

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11 51. On May 11, 2018, Mr. Briggs went back to his usual refrain, claiming he would
12 send records "next week." A true and correct copy of Mr. Briggs' May 11, 2018 email is
13 attached as **Exhibit HH.**

14
15 52. On May 17, 2018, Mr. Briggs said he had "one more glitch to overcome" and that
16 he would send the files.... "next week." A true and correct copy of Mr. Briggs' May 17, 2018
17 email is attached as **Exhibit II.**

18 53. At the end of May 2018, Mr. Briggs finally sent Petitioner records in response to
19 four of his requests. However, these productions were not complete and contained an
20 unreasonable amount of duplicative and non-responsive files.

21
22 54. Regarding Petitioner's first February 22, 2017 request for City Emails, on May
23 29, 2018, Mr. Briggs sent Petitioner 48 records. However, only 8 of the records were responsive,
24 the rest were either duplicative or fell outside the requested date range. A true and correct copy
25 of Mr. Briggs' May 29, 2018 email is attached as **Exhibit JJ.**

26
27 55. Regarding Petitioner's second February 22, 2017 request for StreetPlus Emails,
28 on May 29, 2018, Mr. Briggs sent Petitioner 68 files. Of those, 13 were duplicates and only 40

1 were within the requested date range. The response is also missing the majority of the shift
2 updates StreetPlus sends to Respondent three times a day. A true and correct copy of Mr. Briggs'
3 May 29, 2018 email is attached as **Exhibit KK**.

4
5 56. Regarding Petitioner's June 26, 2017 request, on May 29, 2018, Mr. Briggs sent
6 Petitioner 156 files; 81 of these files were duplicates. Regarding this same request, on May 30,
7 2018 Mr. Briggs sent 690 files, 433 of which were duplicates, and on May 31, 2018 he sent 8
8 more files. A true and correct copy of Mr. Briggs' May 29, 2018 email is attached as **Exhibit**
9 **LL**.

10
11 57. Respondent continues to improperly withhold records responsive to the above
12 requests.

13 **10/26/17 Request**

14
15 58. On October 26, 2017, Petitioner emailed Mr. Briggs requesting the following
16 records from Respondent: "all records in possession of the HCBID involving the Historic
17 Downtown Farmer's Market ("FM") as follows: (a) contracts, MOUs, [etc], (b) all emails
18 between anyone on the staff of the BID and anyone at SFMA from January 1, 2015 through
19 whenever you run the search... (c) all intra-staff emails and emails between staff and board of
20 directors that mention or are to/from/cc/bcc Ian.. the manager of the FM." Petitioner made this
21 CPRA request to follow-up on a complaint of racial bias against a vendor at the FM. A true and
22 correct copy of Petitioner's October 26, 2017 email is attached as **Exhibit MM**.

23
24 59. On November 6, 2017, Mr. Briggs stated he would provide records by November
25 30, 2017. A true and correct copy of Mr. Briggs' November 6, 2017 email is attached as **Exhibit**
26 **NN**.

1 60. On December 15, 2017, Mr. Briggs sent Petitioner 10 files. On May 29, 2018,
2 over five months later, Mr. Briggs sent Petitioner 114 files; 35 were duplicates. Mr. Briggs stated
3 he would produce more “this week” but has not sent anything since. A true and correct copy of
4 Mr. Briggs’ May 29, 2018 email is attached as **Exhibit OO**.
5

6 61. Respondent is improperly withholding the remainder of the responsive records.

7 62. Respondent, through the dilatory and unlawful tactics of its executive Director,
8 Ms. Besten, and its attorney, Mr. Briggs, has grossly violated the CPRA.
9

10 **THE CALIFORNIA PUBLIC RECORDS ACT**

11 63. Under the CPRA, all records that are prepared, owned, used, or retained by any
12 public agency, and that are not subject to the CPRA’s statutory exemptions to disclosure, must
13 be made publicly available for inspection and copying upon request. Gov’t Code § 6253. BIDs
14 are entities subject to the CPRA. California Streets and Highways Code § 36612.
15

16 64. Any person may institute proceedings for injunctive or declarative relief or writ of
17 mandate in any court of competent jurisdiction to enforce his or her right to inspect or receive a
18 copy of any public record.” Gov’t Code § 6258.

19 65. Whenever it is made to appear by verified petition to the superior court of the
20 county where the records or some part thereof are situated that certain public records are being
21 improperly withheld from a member of the public, the court shall order the officer or person
22 charged with withholding the records to disclose the public record or show cause why he or she
23 should not do so. The court shall decide the case after examining the record in camera (if
24 permitted by the Evidence Code), papers filed by the parties, and any oral argument and
25 additional evidence as the court may allow. *Id.* § 6259(a).
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66. If the Court finds that the failure to disclose is not justified, it shall order the public official to make the record public. *Id.* § 6259(b).

67. To ensure that access to the public’s information is not delayed or obstructed, the CPRA requires that “[t]he times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.” *Id.* § 6258.

68. There is no lawful or proper reason for Respondent's dilatory tactics and refusal to provide the records, materials and information Petitioner has requested. Respondent's delay and wrongful refusal to provide the requested records, violates the CPRA. This Court has jurisdiction to order the requested records disclosed at the earliest possible time. Furthermore, Petitioner is entitled to a mandatory award of attorneys' fees and costs incurred in bringing this Petition. *Id.* § 6259.

FIRST CAUSE OF ACTION
Public Records Act, Gov't Code § 6250 *et seq.*

69. Petitioner alleges on information and belief that Respondent will continue to refuse to permit members of the public, including himself, to inspect or obtain copies of the requested public records in violation of the CPRA.

70. Petitioner alleges on information and belief that the information he seeks from Respondent is maintained in Los Angeles County. The requested records are public records not exempted from disclosure.

71. Based on information set forth in this Petition, Petitioner believes, and therefore alleges, that Respondent's failure to produce and/or allow the inspection of records responsive to his requests resulted from an intentional failure to expend good-faith "reasonable effort," to

1 comply with its statutory obligations in violation of the CPRA § 6254(b), which provides in
2 pertinent part that, [e]xcept with respect to public records exempt from disclosure by express
3 provisions of law, each state or local agency, upon a request for a copy of records that reasonably
4 describes an identifiable record or records, shall make the records ***promptly*** available to any
5 person[.]” (Emphasis added).
6

7 **SECOND CAUSE OF ACTION**
8 **California Constitution, Art. I § 3 subd. (b)(2)**

9 1. The California Constitution recognizes that the “people have the right of access to
10 information concerning the conduct of the people’s business, and therefore, the meetings of
11 public bodies and the writings of public officials and agencies shall be open to public scrutiny.”
12 Cal. Const., Art. I § 3(b)(1). This right is self-executing as the provisions of the California
13 Constitution are mandatory and prohibitory. Cal. Const., Art. I § 26.
14

15 2. The California Constitution, therefore, directs the courts to broadly construe
16 statutes that grant public access to government information and to narrowly construe statutes that
17 limit such access. Cal. Const., Art. I § 3(b)(2).
18

19 3. A clear controversy exists between the parties regarding Petitioner’s right of
20 access to Respondent’s public records. Petitioner has and will continue to seek public records
21 from Respondent as is his right under the CPRA and the California Constitution. Respondent has
22 engaged in a pattern and practice of frustrating Petitioner’s right of prompt access to public
23 records.
24

25 4. Without action by this Court, Respondent will continue to frustrate Petitioner’s
26 constitutional and statutory rights and he will suffer irreparable injury. Petitioner seeks injunctive
27 and declaratory relief to protect the future exercise of his right of access to public records.
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Respondent to release the requested documents.

1. This Court issue a peremptory writ of mandate directing Respondent to immediately conduct a diligent and comprehensive search for the requested records, and to thereafter *promptly* provide Petitioner the requested records or, in the alternative, an order to show cause why these public records should not be ordered disclosed;
2. The Court set “times for responsive pleadings and for hearings in these proceedings... with the object of securing a decision as to these matters at the earliest possible time,” as provided in Government Code Section 6258;
3. The Court enter an order declaring that Respondent has violated the CPRA by its refusal to release the public records sought by Petitioner’s requests, and by its failure to promptly respond to, and assist with, Petitioner’s requests;
4. The Court enter an order declaring that for all future CPRA requests from Petitioner to Respondent, Respondent shall produce all responsive documents, subject to properly claimed exemptions, within 30 days, absent a showing of extraordinary hardship;
5. The Court enter an order awarding Petitioner his reasonable attorney’s fees and costs incurred in bringing this action, as provided in Government Code Section 6258, Code of Civil Procedure Section 1021.5; and California’s private attorney general doctrine,

1 6. The Court award such further relief as is just and proper.
2

3 DATED: August 13, 2018
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5 Respectfully Submitted,

6 LAW OFFICE OF COLLEEN FLYNN
7 Attorney for Petitioner

8 /s/ Colleen Flynn
9 COLLEEN FLYNN
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